

(3) *Exceptions.* The following exceptions apply to this section:

(i) The prohibitions of paragraph (e)(2) of this section do not apply to

(A) Federal Government vessels operating in the course of their official duty or state and local government vessels when engaged in official duties involving law enforcement, search and rescue, or public safety.

(B) Vessels participating with a Vessel Traffic Service (VTS) and following a Traffic Separation Scheme or complying with a VTS Measure of Direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats.

(C) Vessels engaged in an activity, such as scientific research, authorized through a permit issued by the National Marine Fisheries Service under part 222, subpart C, of this chapter (General Permit Procedures) or through a similar National Marine Fisheries Service authorization.

(D) Vessels lawfully engaged in commercial or treaty Indian fishing that are actively setting, retrieving, or closely tending fishing gear.

(E) Vessel operations necessary to avoid an imminent and serious threat to a person, vessel or the environment, including when necessary for overall safety of navigation and to comply with the Navigation Rules.

(ii) [Reserved]

(4) *Affirmative defense.* In connection with any action alleging a violation of the prohibitions of paragraph (e)(2) of this section, any person claiming the benefit of any exception listed in paragraph (e)(3) of this section has the burden of raising, pleading, and proving such affirmative defense.

(b) [Reserved]

[64 FR 14066, Mar. 23, 1999, as amended at 66 FR 29509, May 31, 2001; 69 FR 69537, Nov. 30, 2004; 70 FR 1832, Jan. 11, 2005; 76 FR 20890, Apr. 14, 2011; 78 FR 66169, Nov. 4, 2013]

#### § 224.104 Special requirements for fishing activities to protect endangered sea turtles.

(a) Shrimp fishermen in the southeastern United States and the Gulf of Mexico who comply with rules for threatened sea turtles specified in § 223.206 of this chapter will not be subject to civil penalties under the Act for

incidental captures of endangered sea turtles by shrimp trawl gear.

(b) Summer flounder fishermen in the Summer flounder fishery-sea turtle protection area who comply with rules for threatened sea turtles specified in § 223.206 of this chapter will not be subject to civil penalties under the Act for incidental captures of endangered sea turtles by summer flounder gear.

(c) Special prohibitions relating to sea turtles are provided at § 223.206(d).

[64 FR 14066, Mar. 23, 1999, as amended at 66 FR 44552, Aug. 24, 2001; 66 FR 67496, Dec. 31, 2001; 68 FR 8471, Feb. 21, 2003; 69 FR 18453, Apr. 7, 2004; 72 FR 31757, June 8, 2007]

#### § 224.105 Speed restrictions to protect North Atlantic Right Whales.

(a) The following restrictions apply to: All vessels greater than or equal to 65 ft (19.8 m) in overall length and subject to the jurisdiction of the United States, and all other vessels greater than or equal to 65 ft (19.8 m) in overall length entering or departing a port or place subject to the jurisdiction of the United States. These restrictions shall not apply to U.S. vessels owned or operated by, or under contract to, the Federal Government. This exemption extends to foreign sovereign vessels when they are engaging in joint exercises with the U.S. Department of the Navy. In addition, these restrictions do not apply to law enforcement vessels of a State, or political subdivision thereof, when engaged in law enforcement or search and rescue duties.

(1) Southeast U.S. (south of St. Augustine, FL to north of Brunswick, GA): Vessels shall travel at a speed of 10 knots or less over ground during the period of November 15 to April 15 each year in the area bounded by the following: Beginning at 31°27'00.0" N-080°51'36.0" W; thence west to charted mean high water line then south along charted mean high water line and inshore limits of COLREGS limit to a latitude of 29°45'00.0" N thence east to 29°45'00.0" N-080°51'36.0" W; thence back to starting point. (Fig. 1).

(2) Mid-Atlantic U.S. (from north of Brunswick, Georgia to Rhode Island): Vessels shall travel 10 knots or less over ground in the period November 1 to April 30 each year: